No. 94-1126 (3)

IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

Supreme Court, U.S.
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In re:
ONE TIMES SQUARE ASSOCIATES LIMITED PARTNERSHIP,

Debtor.

ONE TIMES SQUARE ASSOCIATES LIMITED PARTNERSHIP,

Petitioner,

vs.

BANQUE NATIONALE DE PARIS,

Respondent,

NORMA ORTIZ,

Trustee.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUPPLEMENTAL BRIEF IN OPPOSITION AND SUGGESTION OF MOOTNESS

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Pursuant to Rule 15.7, respondent Banque Nationale de Paris (the "Bank") submits this supplemental brief in opposition to the petition for a writ of certiorari of petitioner One Times Square Associates Limited Partnership ("OTS").

The Bank respectfully calls to the Court's attention the following matters that have intervened since the filing of its Brief in Opposition, and suggests that the case is now moot.

1. As the Court is aware, this case arises from the lower courts' decisions lifting the "automatic stay" applicable under the Bankruptcy Code to allow the Bank to proceed with a foreclosure sale of OTS's single significant asset, a commercial office building located at One Times Square in New York City.

2. At the time the Bank's Brief in Opposition was filed on January 19, 1995, there was pending before this Court OTS's application for a stay of the foreclosure sale pending disposition of the certiorari petition.

3. Thereafter, on January 20, 1995, Justice Ginsburg entered an order denying that stay application.

4. In the absence of a stay, OTS's building was sold at a regularly conducted foreclosure sale on January 24, 1995.

5. Under New York law, the foreclosure sale terminated OTS's equity of redemption in the building, and assuming *arguendo* that the automatic stay were reimposed, it would not void the sale or prevent the conveyance of the building to the purchaser at the foreclosure. *In re Cretella*, 47 B.R. 382 (E.D.N.Y. 1984); *In re Liggett*, 118 B.R. 213 (Bankr. S.D.N.Y. 1990); *In re Butchman*, 4 B.R. 379 (Bankr. S.D.N.Y. 1980).

6. Accordingly, it is respectfully suggested that this matter is moot.

Respectfully submitted,

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Dated: February 8, 1995